

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

IN RE NEW ENGLAND COMPOUNDING  
PHARMACY, INC. PRODUCTS  
LIABILITY LITIGATION

MDL No. 2419  
Dkt. No. 1:13-md-2419 (FDS)

THIS DOCUMENT RELATES TO:

All Actions

**JOINTLY PROPOSED AGENDA  
FOR THE FEBRUARY 6, 2014 STATUS CONFERENCE**

The Plaintiffs' Steering Committee, Ameridose LLC, New England Compounding Pharmacy, Inc. (through both the Trustee and counsel), and Official Committee of Unsecured Creditors (through counsel)<sup>1</sup> jointly propose the following agenda for the February 6, 2014, status conference:

1. Update on short form complaints
  - a. Summary of Short Form Complaints filed by PSC [Dkt. 822]
2. Status of mediation efforts [Mediation Order, Dkt. No. 394]
3. Status of proposed settlement in principle with NECC principles, related entities, and insurers
4. Master Complaint against Affiliated Defendants and responsive pleadings
  - a. March 10, 2014, deadline to file Master Complaint against Affiliated Defendants [Dkt. 747]
  - b. Stipulation and Proposed Order Granting Extension of Time for Defendant UniFirst to Respond to the Master Complaint until April 1, 2014 [Dkt. 857]
5. PSC's Motion to Partially Lift Discovery Stay against Affiliated Defendants [Dkt. 534]
  - a. Chapter 11 Trustee's Response [Dkt. 758]
  - b. Affiliated Defendants' Opposition [Dkt. 757]
  - c. Official Committee of Unsecured Creditors' Responses [Dkt. 762]

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<sup>1</sup> All defendants whose counsel have filed notices of appearance in the MDL were provided an opportunity to comment on the agenda.

6. Report on informal discovery productions
7. Update on subpoenas and objections
  - a. PSC's Motion(s) to Compel and for Civil Contempt [Dkt. 786, 787]
  - b. Opposition to Motion to Compel by Baltimore Pain Management Center [Dkt. No.842].
  - c. PSC Reply to Opposition by Baltimore Pain Management Center [Dkt. 849]
8. PSC's Motion for Entry of CMO Establishing Assessment Procedures to Fund Common Benefit Account [Dkt. 790]
  - a. Response filed by Certain Members of the Official Committee of Unsecured Creditors [Dkt. 830]
  - b. Limited Objections filed by the Official Committee of Unsecured Creditors [Dkt. 833]
  - c. Limited Objections filed by Chapter 11 Trustee of NECP, Inc. [Dkt. 834]
  - d. Opposition filed by Plaintiffs Dale and Allison Devilli [Dkt. 836]
  - e. Response of Interested Plaintiffs' Counsel [Dkt. 839]
  - f. PSC Reply in Support of Entry of CMO [forthcoming]
9. Joint Motion for Order Setting Briefing Schedule and Request for Oral Argument filed by PSC (applies to dispositive motions filed by most Tennessee clinic entities) (Dkt. 845)
10. Dispositive Motions:
  - a. Motion to Dismiss by St. Thomas Related Entities (failure to comply with Tenn. Code. Ann. 29-26-121 (Dkt. 770)
  - b. Motion to Dismiss by St. Thomas Related Entities (global claims) (Dkt. 771, 772)
  - c. Motion for Summary Judgment by John Culclasure, Howell Clinic *et. al.* (Dkt. 774, 775, 776, 777, 778)
  - d. Motion to Dismiss for Failure to State a Claim filed by Ascension Health *et al.* (Dkt. 779, 780)
  - e. Motion to Dismiss for Failure to State a Claim (global claims) filed by Premier Orthopedic and Sports Medicine Associates of Southern New Jersey, LLC, *et. al.* (Dkt. 831)
11. Matters referred to Judge Boal
  - a. Travelers Motion to Quash [Dkt. 633, 730]
    - i. Opposition filed by PSC [Dkt.785]

- b. Liberty Industry's Motion to Quash [Dkt. 793, 794]
    - i. Opposition filed by PSC [Dkt. 801]
  - c. Plaintiff Fact Sheet / Medical Releases
    - i. Filing of Proposed PPF and Statement in Support filed by John Culclasure, Howell Allen Clinic *et. al.* [Dkt. 807]
    - ii. Response to PSC's Memo in Support of Proposed PPF by John Culclasure *et. al* [841].
    - iii. Memorandum in Support by Saint Thomas Health *et. al* [Dkt. 808]
    - iv. Response by Saint Thomas Health *et. al.* to PSC Proposal [840]
    - v. Memorandum in Support of Proposals for PPF, Discovery Protocols, and Releases filed by PSC [Dkt. 810, 811]
    - vi. Response of PSC to Tennessee Defendants' and St. Thomas Entity's Proposals re PPF and Authorization [835]
  - d. Parties meeting and conferring on all matters referred to Judge Boal
12. Bellwether scheduling process
- a. Motion for Entry of Bellwether Trial and Pre-Trial Scheduling Order (St. Thomas discovery and trial plan) filed by PSC [Dkt. 837, 838]
  - b. Response filed by John Culclasure, Howell Allen Clinic *et. al.* [Dkt. 858]
13. PSC Notice of Instructions for Accessing U.S. Legal Repository [Dkt. 739]
14. PSC Motion to Amend Order on Central Enforcement of Subpoenas [Dkt. 749]
- a. Order on Central Enforcement of Subpoenas [Dkt. 193]
15. Trustee's Renewed and Supplemental Motion to Transfer [Dkt. 732]
- a. Joinder of the Creditor's Committee [Dkt. 743]
  - b. Opposition filed by Sandra F. Artis, *et. al.* (Gentry Locke) [Dkt 764]
  - c. Opposition filed by Chance Baker, *et. al.* [Dkt 766]
  - d. Corrected Response filed by Plaintiffs' Lead Counsel [Dkt. 799]
  - e. Opposition filed by Roanoke Area Lichtenstein Fishwick Intervenors [Dkt. 792]
  - f. Joint Response by Chapter 11 Trustee and the Creditor's Committee [Dkt. 818]
  - g. Memorandum in Support filed by Insight Health Corp. [Dkt 820]
  - h. Reply filed by Sandra F. Artis, *et. al.* [Dkt. 844]
  - i. Opposition filed by Image Guided Pain Management, P.C. [Dkt. 846]

16. Renewed Motion for Mandatory or Permissive Abstention by Sandra F. Artis, *et. al.*  
[Dkt.763]

- a. Order granting motion for extension of time until 1/17/2014 to reply [Dkt. 825]

17. Other pending motions/ activities

- a. Order Entering Third Amended Protective Order of Confidentiality [Dkt. 814]
- b. First Amendment to Master Complaint filed by PSC [Dkt. 832]

18. Status of bankruptcy proceedings

19. Status of appeals

20. Status of insurers' declaratory judgment actions:

- a. *Ironshore Specialty Ins. Co. v. Ameridose et al.*, 1:13-cv-13000-FDS (D. Mass.)
- b. *Certain Underwriters at Lloyd's, London v. Ameridose et al.*, 1:13-cv-12609-FDS (D. Mass.)
- c. *Landmark Am. Ins. Co. v. ARL Bio Pharma, Inc.*, CJ-2013-3193 (Okla. Dist. Ct.)

Dated: February 5, 2014

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**CERTIFICATE OF SERVICE**

I, Kristen Johnson Parker, hereby certify that I caused a copy of the above Corrected Jointly Proposed Agenda for the February 5, 2014, Status Conference to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Dated: February 5, 2014

/s/ Kristen Johnson Parker  
Kristen Johnson Parker, BBO # 667261